

STATE OF CALIFORNIA
FISH AND GAME COMMISSION
FINAL STATEMENT OF REASONS FOR REGULATORY ACTION

Amend Section 180.15
Title 14, California Code of Regulations
Re: Coonstripe Shrimp Fishing

- I. Date of Initial Statement of Reasons: February 18, 2002
- II. Date of Pre-adoption Statement of Reasons: September 27, 2002
- III. Date of Final Statement of Reasons: November 22, 2002
- IV. Dates and Locations of Scheduled Hearings:
 - (a) Notice Hearing: Date: April 25, 2002
Location: Sacramento, California
 - (b) Adoption Hearing Date: October 25, 2002
Location: Crescent City, California
- V. Update:

No modifications were made to the originally proposed language of the Initial Statement of Reasons.
- VI. Summary of Primary Considerations Raised in Support of or Opposition to the Proposed Actions and Reasons for Rejecting those considerations:

Karen Reyna, The Ocean Conservancy and Karen Garrison, Natural Resources Defense Council, Letter dated October 4, 2002. The two organizations support the Department's proposed season and trap only restriction.

Zeke Grader, Pacific Coast Federation of Fishermen's Association, Testimony on 10/25/02.

Mr. Grader supported the Department's recommendation. He also suggested implementing provisions, including restricted access, for the orderly expansion of the fishery outside of the north coast area. He would like to work with the Department in exploring research funding for expansion of the fishery into other parts of the state.

Department Response: The other comments Mr. Grader made had no bearing

on the current regulatory action.

Jim Bassler, Salmon Troller's Marketing Association, Testimony on 10/25/02.
Mr. Bassler supported the Department's recommendation. He is also interested in expansion opportunities in other more southern ports.

Department Response: Opportunities for expansion of the fishery are not included in the current regulatory action.

Bill DeBacker, Commercial fisherman, Testimony on 10/25/02.
Mr. Debacker supported a season from June 1 to February 15 because the ocean is getting crowded and unsafe. He also suggested a 300-trap limit for the fishery.

Department Response: The Department proposed an open season of May 1 through October 31 because coonstripe shrimp normally mate and start carrying eggs in October, making the peak of their breeding season in the winter months when the season would be closed. Mr. DeBacker's suggested season would have the shrimp being fished during their prime breeding season. Trap limits are not included in the current regulatory action.

Jack Tesh, Commercial fisherman, Testimony on 10/25/02.
Mr. Tesh suggested a season from June 1 through October 31 and a trap limit of 500 traps (the same as for spot prawn).

Department Response: The biological factors affecting the month that would be the best for the season opening of the season vary from year to year. The Department proposed a six-month season starting on May 1 to allow for a six-month fishing season for the fishermen while still providing protections for the shrimp resource. Trap limits are not included in the current regulatory action.

Ed Senf, Commercial fisherman, Testimony on 10/25/02
Mr. Senf supported the establishment of zones with trap limits set by zone.

Department Response: The establishment of management zones with trap limits for each zone is not included in the current regulatory action.

Mike Zamboni, Commercial fisherman, Testimony on 10/25/02.
Mr. Zamboni supported expansion of the fishery and a restricted access program statewide with the exception of the Crescent City area.

Department Response: Expansion of the fishery and establishment of a restricted access program are not included in the current regulatory action.

Joe Wallace, Commercial fisherman, Testimony on 10/25/02.

Mr. Wallace supported the Department's recommended season and a 300-trap limit. He commented that the \$75.00 permit for coonstripe shrimp should include the crew members on his fishing vessel.

Department Response: Department staff informed Mr. Wallace that the current \$75.00 coonstripe shrimp permit is a vessel permit that covers all the individuals on that vessel, as long as everyone aboard each has a general trap permit. Trap limits are not included in the current regulatory action.

VII. Location and Index of Rulemaking File:

A rulemaking file with attached file index is maintained at:
California Fish and Game Commission
1416 Ninth Street
Sacramento, California 95814

VIII. Location of Department files:

Department of Fish and Game
1416 Ninth Street
Sacramento, California 95814

IX. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulatory Action:

1. Season. A season with a flexible start date is an alternative to a fixed season opener. It is the preferable choice, from a biological perspective, because fluctuations in oceanographic conditions (like temperature) can result in an early or late reproductive cycle. However, this alternative was rejected because setting a season based on oceanographic or biological conditions involves annual sampling and analyses by Department staff. Such a small fishery does not warrant or support the expense of Department resources for such an activity.

2. Gear. The use of trawl nets was considered, with permit conditions including mandatory at-sea observations to collect information on catch and bycatch and a mandatory logbook. However, this alternative was rejected because of increasing concerns about bycatch of federally managed groundfish species, several of which have been determined to be overfished, and bycatch of state managed nearshore species in trawl nets. Expanding the use of trawl nets in nearshore waters is not consistent with Department fishery management goals.

(b) No change Alternative:

Not creating a season could jeopardize the health of the coonstripe shrimp resource. Shrimp that are still carrying eggs would be caught and wasted for the sake of staking out territory on the fishing grounds. The lack of a season also creates disagreement between fishermen who were putting their traps out early (in April) and those who were waiting until May. A season that prohibits fishing until May would result in a more orderly fishery.

Allowing the establishment of the use of trawl gear in this fishery could result in an unacceptable level of bycatch, including rockfish, flatfish and a variety of invertebrates. Trawl nets also can damage coastal habitats that are fishing grounds and nursery areas for a variety of species. Trawl fishermen would suffer economic loss if allowed to become regular participants in the fishery and then excluded at a future date.

(c) Consideration of Alternatives:

In view of information currently possessed, no reasonable alternative considered would be more effective in carrying out the purposes for which the regulation is proposed or would be as effective and less burdensome to the affected private persons than the proposed regulation.

X. Impact of Regulatory Action:

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following determinations relative to the required statutory categories have been made:

(a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed regulations are not expected to have a significant statewide adverse economic impact affecting businesses, including the ability of California businesses to compete with businesses in other states. Each coonstripe shrimp trapper or buyer is considered a business. Establishing a season and gear type will not change the size, composition or activity of the existing fishery participants. No catch would be made in April, but buyers frequently do not purchase the product or pay reduced prices for it in that month. Trawl nets would be eliminated as a method of take in the fishery, but currently there are no trawl fishermen regularly participating in the fishery.

(b) Impact on the Creation or Elimination of Jobs Within the State, the

Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California: None

(c) Cost Impacts on a Representative Private Person or Business:

Each coonstripe shrimp trapper or buyer is considered a private person or business. The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

(d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

(e) Nondiscretionary Costs/Savings to Local Agencies: None

(f) Programs mandated on Local Agencies or School Districts: None

(g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None

(h) Effect on Housing Costs: None

Updated Informative Digest (Policy Statement Overview)

Under existing law, to participate in the commercial coonstripe shrimp fishery one must have a commercial fishing license, a commercial vessel registration, a coonstripe shrimp vessel permit, and if trapping, a general trap permit. A coonstripe shrimp trap fisherman must also abide by all regulations regarding trap size, destruct devices, marking and service interval. Trawl fishermen are required to abide by the general gear specifications and limitations for shrimp trawling.

The Fish and Game Commission is proposing the establishment of a statewide open season for the take of coonstripe shrimp from May 1 through October 31. The rest of the year the fishery would be closed to protect the shrimp during **its** breeding and egg bearing season. Additionally, the Commission is proposing to allow only trap gear for the take of coonstripe shrimp. The proposed regulation includes language specifying when traps can be set and baited at the start of the season, and when traps must be out of the water at the end of the season.

A grammatical change was made to the language in this Updated Informative Digest as indicated in bold in the previous paragraph.

After public testimony at their October 25, 2002 meeting the Commission unanimously moved to amend Section 180.15, Title 14, CCR.

Section 180.15, Title 14, CCR, is amended to read:

180.15. Coonstripe Shrimp, *Pandalus danae*, Fishing.

(a) No person shall use a vessel to take, possess or land coonstripe shrimp for commercial purposes unless the owner of that vessel has been issued a coonstripe shrimp vessel trap permit for that vessel that has not been suspended or revoked.

(b) The fee for a coonstripe shrimp vessel trap permit is \$75.00.

(c) Coonstripe shrimp may only be taken for commercial purposes ~~by trawl nets pursuant to Section 120,~~ or by traps pursuant to this section and sections 180, 180.2, and 180.5, Title 14, CCR.

(1) Coonstripe shrimp may not be taken from November 1 through April 30.

(2) All coonstripe shrimp taken during the closed season shall immediately be returned to the water. No coonstripe shrimp shall be possessed or landed aboard any commercial fishing vessel during the closed season.

(3) Coonstripe shrimp traps may be set and baited no earlier than noon on April 30.

(4) All traps must be removed from the water prior to November 1, weather and sea conditions permitting. In the event that a permittee is unable to comply with this subsection, then the permittee must notify an officer from the department's Enforcement Branch in the nearest department office via telephone or fax not later than noon on October 31. The permittee must state the reason for the delay and the anticipated date of removal. Notification does not relieve the permittee of the responsibility for complying with this subsection unless approved by the department.

(d) A control date of November 1, 2001, is established for the purpose of considering a future restricted access coonstripe shrimp trap fishery. Landings on or after this date may not apply toward a permit in a future restricted access program for the coonstripe shrimp trap fishery if one is developed.

NOTE: Authority cited: Sections 1050 ~~and~~, 8591 and 8842, Fish and Game Code.

Reference: Sections 1050, 8590, 8591, 8595, 8842, 9001 and 9015, Fish and Game Code.